

Virginia Department of Social Services

DIVISION OF LICENSING PROGRAMS

RISK ASSESSMENT AND ENFORCEMENT OPTIONS GUIDANCE MANUAL

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A Guidance Manual for Assessing Risk and Determining Enforcement Options

I. Overview

This guidance manual is intended to assist the Division of Licensing Programs (DOLP) with providing better protection for consumers and to help ensure that the application of enforcement options can be justified when violations are encountered. Portions of this document are intended to supplement the *Standard Operating Procedures (SOP) on Adverse Enforcement*.

The purpose of licensure and registration requirements is to ensure that consumers receive at least the minimum level of acceptable care. Unfortunately, because the threshold is set at the minimum level, there is no significant buffer or safety zone. That is, most violations pose some degree of risk for consumers. For this reason, risk assessment comes to the forefront of any type of facility/home inspection. While the expectation is that all providers achieve and remain in substantial compliance with all requirements of care at all times, the degree of risk posed by each violated requirement varies widely. In this risk assessment process, attention is focused on violations and patterns of violations that pose significant and obvious risk to consumers.

II. Goals

The goal of this guidance will be achieved by integrating the following components into a comprehensive risk assessment process:

- A) Identifying regulatory requirements considered key to ensuring the health, safety, and human rights of consumers.
- B) Developing a conceptual framework to assist in evaluating potential or actual harm and appropriate enforcement options.
- C) Implementing ongoing staff training activities in order to improve the decision-making process involved with the assessment of risks and the consideration of enforcement options.
- D) Establishing a database to track trends in violations, associated risks, and enforcement actions taken for the purposes of accountability and staff education.

III. Definitions

Risk – An expression indicating the potential for harm to result from a violation and the severity of harm likely to be suffered.

Risk assessment – The process of detecting violations and assessing the associated risks.

Occurrence – The potential for a violation to result in harm.

Severity – The degree of harm that may potentially result from a violation.

Exacerbating variables – Variables that reflect internal or external characteristics of a person, place, or thing considered to have the potential to increase the risk of harm from a violation.

Mitigating variables – Variables that are planned contingencies, which take into account characteristics of a person, place, or thing, intended to decrease or prevent the risk of harm from a violation.

Variables that reflect internal or external characteristics of a person, place, or thing considered to have the potential to decrease or eliminate the risk of harm from a violation.

Enforcement-related mitigating variables – Variables that reflect any course of action taken, or planned, taken by licensing and/or the service provider intended to reduce or prevent the future occurrence of violations and any associated harm.

Operation – The performance of an activity or function involving the practical application of principles or processes, e.g., having to do with administration, personnel and staffing requirements; special care provisions and emergencies; admission, retention, and discharge of residents; buildings and grounds,

System – Two or more related processes or activities that lead to a certain outcome.

Isolated – One or more violations in only one operation.

Scattered – Three or fewer violations in two or more operations.

Widespread or systemic – Two or more operations that have six or more violations per operation.

Repeated – Any violation that has been observed over two or more separate inspections or investigations during the licensure period of the facility/home.

Nature or type of violations– The nature of violations relates to whether or not violated standards have been identified as key health, safety, and human rights standards.

Duration and speed of impact from violations – The duration and speed simply mean how long the person in care has been exposed to a violation and how soon it will be before the person in care is impacted. Determining whether duration and speed of impact from a violation will lead to harm depend heavily on the susceptibility of the person in care. Reliance on anecdotal experiences and considering the opinions of peers, supervisor, and other experts in the related field should help in assessing the risk for harm when the violation is influenced by these two variables.

IV. The Risk Assessment Process

It is widely accepted that the accuracy of assessing risk of harm from an event is very susceptible to individual experiences, knowledge, and intuition of the assessor. To bridge the perceptual gaps among licensing staff in how they determine risk, achieving a

common understanding of the circumstances giving rise to a violation, and a systematic approach to evaluating the impact of the violation on some individual or thing, must be an ongoing endeavor by the division. To close these perceptual differences among staff, all licensing offices are required on a routine basis to offer staff in-service training on assessing risk in the form of presentations by field experts, staff case presentations and discussions, literature searches and discussions, etc. To achieve a systematic approach to evaluating the impact of a violation, a risk assessment process (see Appendix A) has been outlined with essential information for staff to consider as they inspect and interpret a situation involving a violation. As revealed by the flow chart, the process follows a circular route, i.e., beginning with a trigger (the violation) that sets the process in motion, and ending with staff training. Hence, this process reflects the heart of having an ever improving tool for assessing risk.

V. Instructions on Using the Risk Assessment Matrix

A) Key Elements of Health, Safety, and Human Rights Standards and the Division of Licensing Programs Help and Information Network (DOLPHIN) system.

1. In order to assure the protection of consumers, licensure and registration requirements provide the oversight for a number of areas in the operation of a facility or home. Generally, these areas (see also Appendix B) cover the followings:

- Staffing and supervision
- Hygienic conditions
- Environmental conditions
- Physical, psychological, and emotional care
- Medication and treatment practices and procedures
- Reporting and Recordkeeping

2. The DOLPHIN system replaces much of our manual procedures for reporting and recording findings from inspections, investigations, and other licensing activities. All regulatory licensure and registration requirements for adult and children's programs, with their relevant sections of the *General Procedures* and *Virginia Codes*, have been stored in the DOLPHIN database. This automation facilitates the licensing inspector's efforts in reviewing compliance with licensure or registration requirements, and provides for storage and retrieval of current and historical licensing information.

For relevant adult and children's programs, certain standards, general procedures, and codes have been designated as being critical to the protection of consumers' health, safety, and/or human rights. These designations were determined by a statewide survey of licensing staff. Violations of these specially flagged standards will initiate DOLPHIN to prompt the inspector to assign a level of risk. DOLPHIN, in turn, assigns a pre-determined numerical score according to the assigned level of risk. These steps are taken for all programs with the exception of the Religious Exempt and Voluntary Registration programs.

3. Although the inspector needs to become very familiar with this guidance manual, for quick reference the licensing inspector should have a copy of the Risk Assessment and Enforcement Options Matrix (see Appendix C). The Matrix is used as an aid in determining the level of risk or actual harm found in connection with any violations of key and/or widespread standards.

B) Violations Involving Key Licensure Requirements versus Widespread and/or Repeated Non-Key Requirements

1. Violations of key requirements

Any violation of a requirement designated as key to the protection of a consumer's health, safety, and human rights, is automatically subjected to the Matrix. Each violation of a key requirement is assessed individually for the level of risk to the consumer. As stated, DOLPHIN prompts the inspector to enter an assessed risk level for each violation of a key requirement. In turn, each risk level has a pre-determined numerical score that DOLPHIN will use to calculate a total risk index score. This is discussed in greater detail later.

2. Widespread and/or repeated violations of non-key requirements

Violations of requirements not designated as key are subjected to the Matrix when they are found to be widespread and/or repeated.

a) Widespread and/or repeated violations are likely to reflect a serious problem with management and the oversight of day-to-day operations at the facility/home. Unless brought under control, safeguards that a facility/home might normally have in place to protect consumers are very likely to fail due to failures to comply with the policies and procedures of the facility/home, or due to the lack of policies and procedures.

Trigger: When violations are widespread, or systemic, (i.e., two or more areas of operations that have six or more violations per area), or when violations have been repeated (i.e., three or more over the licensure period), an overall assessment of risk shall be made to determine the actual or potential for harm to the consumers.

b) When assessing risk associated with violations that are widespread and/or repeated, it is not necessary to subject each individual violation to the Matrix. Rather, the attempt is made to assess the extent to which individuals in care might be harmed by the collective impact of non-key requirements that are violated. In other words, the inspector may determine that a single risk level, e.g., C-2, should be assigned to a group of non-key requirements due to the impact that the systemic problem will have on the individuals in care.

While DOLPHIN will calculate risk index scores for violations of key requirements for each inspection section, the determination of whether violations of non-key requirements are widespread, and/or repeated violations, will require a visual inspection of these violations. DOLPHIN will, however, generate a report of all violations, i.e., key and non-key requirements.

C) Conceptual Framework for Assessing Risk

1. Purpose

The Matrix provides the conceptual framework to assist licensing staff with evaluating potential or actual harm. Information from this assessment may then be used to determine whether a need exists for greater oversight and/or appropriate enforcement options. Ultimately, the operation of a facility or home could adversely be affected by how well a provider manages the day-to-day operations to ensure the health, safety, and rights of individuals in care. In using the Matrix, the assumption is that a violation was found of either a key or non-key standard (Steps 1 and 2 on the flow chart). The question that the licensing staff must then answer is, “What is the potential for harm to result, if it has not already, and how severe might the harm be to the consumer if it continues?” Again, according to the definition, risk is an expression indicating the potential for harm to result from a violation and the severity likely to be suffered. Hence, the Matrix is constructed to permit the licensing staff to look at a violation along two dimensions or scales, i.e., the potential or actual “*occurrence*” and the potential or actual “*severity*” of harm resulting from the violation (Step 3 on flow chart).

2. The construction of the Matrix

The Matrix is comprised of a two dimensional table of measurements. Specifically, there are nine (9) different combinations of letters and numbers that correspond to nine progressive levels of risk. The dimension referred to as “*Occurrence*” is on the y-axis (or vertical side) of the table. It indicates the potential or actual harm that results from a violation. This dimension is comprised of three progressive measures, i.e., *low*, *medium*, and *high*, which are denoted by the letters *A*, *B*, and *C*, respectively. If, however, harm has been found to have occurred, then the rating must be no less than *C*. In other words, a rating of “high” means that harm is very imminent or has occurred.

The dimension referred to as “*Severity*” is on the x-axis (or horizontal side) of table. It indicates the potential or actual degree of harm that has resulted from a violation. The dimension of severity is also comprised of three progressive measures, i.e., *moderate*, *serious*, and *extreme*, which are denoted by the numbers *1*, *2*, and *3*, respectively.

3. Determining the appropriate level of risk

Using knowledge acquired through training, education, experience, opinions of colleagues, and/or an expert in a relevant field, licensing staff is expected to use the Matrix to help arrive at the best judgment regarding the potential for harm to result from a violation (see Step 3 on flow chart for the Risk Assessment Process). Whatever the source of information that may be used to arrive at that best judgment, it must involve the consideration of the impact of exacerbating and mitigating variables.

Exacerbating variables: In this risk assessment model, exacerbating variables are variables considered to have the potential to increase the risk of harm to an individual. These variables or characteristics may be internal or external to a potential victim. For instance, a child's sensitivity to peanut butter is an internal bio-chemical allergic response to a food that is generally safe to the public at large. On the other hand, an external variable would be the exposure to a high dose of radiation which places at risk for harmful consequences all who are exposed. It is important to remember that what may be an exacerbating variable for one may not be for another. Knowledge of the target population, and/or the thing inflicting harm, is key in determining the impact of exacerbating variables.

As the risk assessment flow chart illustrates, examples of these exacerbating variables may include the number of violations, nature or type, pattern, and speed of impact of the violations as well as duration of exposure to the violations. These variables may individually or collectively affect the potential for a violation to result in harm. For example, a single violation type, such as a facility failing to offer the required number of nutritional meals on a particular day, may not pose any harm for adults who do not have any health problems. On the other hand, this same violation may pose an imminent risk for harm for a resident who has diabetes. In the latter scenario, the resident's health is affected by two interacting variables, i.e., missed meals and diabetes.

Mitigating variables: Mitigating variables are defined as planned contingencies, which take into account characteristics of a person, place, or thing that are intended to decrease or prevent the risk of harm from a violation. These variables must be taken into consideration before deciding what level of risk to assess from a violation. Typically incorporated in a risk management plan, the person implementing the plan has reason to believe that the contingencies represent an extra layer of protection. Take for instance, two child daycare centers, A and B, that failed to carry out scheduled evacuation drills. Both facilities are one-story buildings and are structurally comparable in safety features except that Facility A has installed exit doors in each classroom and has designated a staff to function as a safety and security officer. Without a doubt, Facility B's violation represents the greater risk to the children in care.

Just as the person implementing a risk management plan of any contingencies needs to have sound reasons for the elements of the plan, any consideration by licensing staff of these variables or contingencies in determining

the level of risk must be based on sound judgment. And this judgment must be based on being adequately informed, via training, research, expert opinion(s), etc., about what things could elevate risk and what things could lower or prevent risk.

4. Locating the risk level on the Matrix

To determine the coding for a certain level of risk (Step 4 on flow chart), first determine whether potential or actual harm from a violation has occurred by selecting the corresponding letter. Next, determine the potential or actual degree of harm that may or has occurred from a violation by selecting the corresponding number. For instance, a risk level of A-3 means that there is a low potential that a violation will result in harm (i.e., A), but if harm does occur, the degree of harm will most likely be extreme (i.e., 3). If, however, we are no longer considering the potential for harm to occur, but actually find immediate and obvious harm from a violation, then the assessment rating from the scale related to “Occurrence”, i.e., the “y-axis”, must be no lower than “C”, as stated earlier. The assessor, then, needs only to estimate the severity of harm that occurred.

5. Points of caution

It is important to remember that the assessed level of risk is a determination made at a certain point in time, based on the available information. For instance, a certain violation that is committed on two different occasions could receive two different risk level determinations. This may occur when taking into consideration characteristics of the person(s) affected and/or the duration of the person(s) exposure to the violation.

Also, there may be some mistaken inclination to adjust the assessed level of risk by considering such things as the absence of actual harm, a promise by the licensee to do better in the future, the resourcefulness of the licensee to correct problems, etc. The level of risk must be made independently of these and similar considerations. The risk is judged on what could have happened during the exposure.

Finally, it must be remembered that the Matrix is only a tool. The intention is not for the Matrix to replace good professional judgment, only to support it.

D) Determination of Risk Index Scores and the Role of DOLPHIN

1. Risk Index Score for Individual Regulatory Sections vs Overall Risk Index Score for the Facility/Home

The determination of a risk index score for a regulatory section and/or the overall risk index score for the facility/home will be performed by DOLPHIN. Specifically, each of the nine (9) risk levels has been assigned a numerical weight that progresses in magnitude as the level of risk increases. The intent of this procedure is to provide some sense of how pervasive and harmful the problems

may be in a particular area of operation or throughout the entire facility/home. Once the risk level has been determined for individual key standards or for a group of non-key standards, the next step involves DOLPHIN adding the values to determine a score for each regulatory section and/or for the overall facility/home. A future goal of the division is to use this scoring procedure to assist in determining licensure. However, for now, it is important to note that interpretive statements about a score or scores obtained by a facility/home will be limited until guidelines can be developed for making inferences about the outcomes. As the division aggregates more and more data about how facilities perform, it may be necessary to adjust the scoring weights currently used.

The assigned weights will be programmed into DOLPHIN as follows:

A-1= 2	B-1= 8	C-1= 14
A-2= 4	B-2= 10	C-2= 16
A-3= 6	B-3= 12	C-3= 18

Individual non-key standards are assigned a numerical weight of 1.

2. An example of the above procedure can be illustrated by the following violations found in the regulatory section pertaining to *Buildings and Grounds*:

<u>Key Standards Violated</u>	Assessed Risk	Converted Score
General requirements (490.F)	A-1	2
Maintenance of buildings and ground (500.A)	B-2	10
Maintenance of buildings and ground (500.C)	B-2	10
Heating, ventilation, and cooling (510.C.3)	C-3	18
Lights and lighting fixtures (520.D)	C-2	16
Toileting, handwashing and bathing (540.D.1)	C-2	16
<u>Non-Key Standards Violated</u>		
General requirements (490.D.1)	N/A	1
Heating, ventilation, and cooling (510.A)	N/A	1
Lights, and lighting fixture (520.A)	N/A	1
Risk Index for this regulatory section =		75

To obtain the overall risk index for the facility/home, the scores from all regulatory sections are totaled.

VI. Instructions for Using the Enforcement Options Table

A) Purpose

When enforcement actions are deemed necessary, assistance with selecting the most appropriate option(s) is available by using a reference table located beneath the Matrix (Steps 5 on flow chart). The table reflects a stepwise progression of enforcement options as they relate to the potential harm that may occur to the consumer and the extent of harm that the consumer could suffer. Staff should also refer to the SOP on *Adverse Enforcement* for a more extensive treatment of this subject. Before deciding on an enforcement action to recommend, consideration must be given to enforcement-related mitigating variables.

Enforcement-related mitigating variables: These are variables that reflect any course of action taken or planned by licensing and/or the service provider with the intent to reduce or prevent the future occurrence of violations and any associated harm. Examples of enforcement-related mitigating variables are the facility/homes' ability/willingness to respond immediately and appropriately to protect persons in care, to develop and implement an appropriate plan of correction in a timely manner, and the compliance history of the facility/home. Another type of information with mitigating influence is the licensing division's consideration of its own history of enforcement responses to similar violations. In other words, consistency of enforcement responses to similar violations may negate any consideration of the facility/home's ability/willingness to take corrective actions because of the seriousness of the violation(s). For instance, a child day care center that loses a child or an assisted living facility that seriously under or over medicates a resident is almost certain to receive an intermediate or ultimate sanction. Whatever the decision regarding the recommended enforcement action, the justification must be well documented and retained in the case file.

B) Construction and use of the Enforcement Table

1. There are three shaded rectangular blocks below the matrix containing the enforcement options.
2. Although the options are arranged progressively, they are not necessarily used progressively; they are applied according to assessed risk.
3. It is also important to note that licensing staff is obligated to *consider* the options as directed by the Matrix.
4. The enforcement options begin with corrective action and consultation provided, followed by consideration of intermediate sanctions, and conclude with the consideration of ultimate sanctions, i.e., revocation or denial. For example, if a violation was rated A-1, i.e., assessed as having a low potential of causing harm, and only causing minor harm if it does occur, then the enforcement option might be consultation only. Another option could be corrective action and consultation plus a civil penalty. If a violation was rated C-3, i.e., assessed as having a high

potential of causing harm, and causing extreme harm if it does occur, then revocation or denial must be *considered*.

5. It is very important to remember that the table of enforcement options is intended to aid the decision-making process, not to replace judgment and other sources of information, e.g., the facility's history of effectively and promptly resolving problems.

VII. Communication and Documentation Requirements after deciding on the Risk Level and an Enforcement Option

A) Communicating Findings

1. Communicating with the licensee about inspection findings

In order for licensees to improve in their protection and care of children and adults under their supervision, they must clearly understand any potential risk of harm, or actual harm, associated with violations, and the expectation to implement an appropriate plan of preventive correction. When communicating the findings from a risk assessment, the licensing inspector should avoid using jargon, such as, A-1, B-2, etc. In addition, the inspectors should explain, with as much detail as possible, that the risk level determination was reached by considering variables such as the nature and repetition of the violation, characteristics of the target population that make this population especially vulnerable, and the level of skills which were or would be required to provide the necessary interventions to prevent or treat the injury. The inspector should explain in simple language that the level of risk was determined by analysis of the facts of the violation, e.g., consideration of the opinions and/or recommendations of persons consulted within the DSS licensing division, relevant research literature, outside professional consultants, and/or one's own personal experiences.

2. DOLP's Recordkeeping

The DOLPHIN system replaces the Compliance Record and Review Form that was formerly used, in part, to document the findings of an inspector's risk assessment. Being able to defend the risk assessment requires that the justification(s) for whatever determinations reached be sound and well documented. Licensing staff are strongly encouraged to document information that they considered in their assessment in the comment section provided in the Compliance menu located in the licensing inspection module (LIM). Another location in the LIM for this documentation on relevant violations is on the violation notice.

B) Staff Training

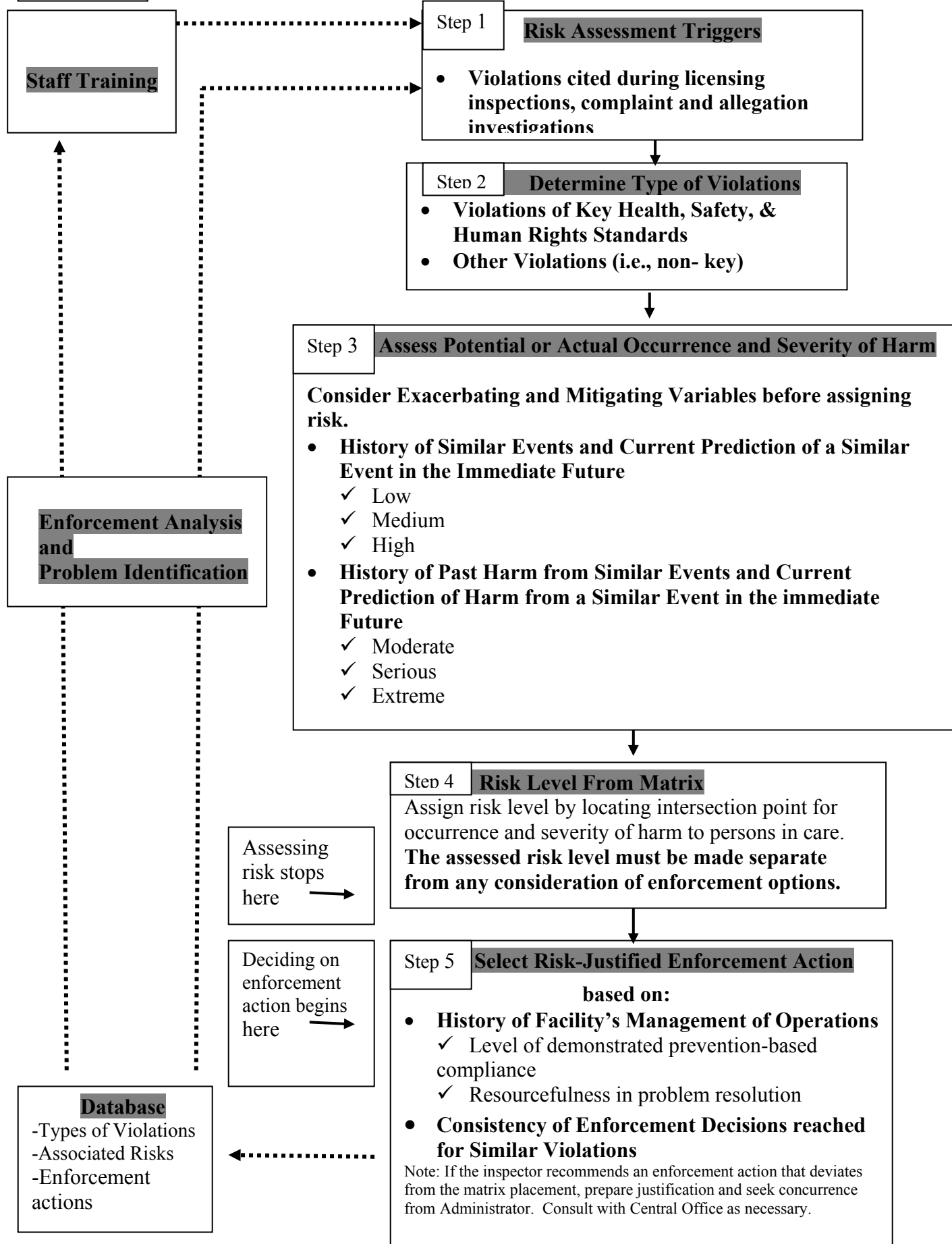
Undeniably, staff training is an extremely important component of the risk assessment process. Training, particularly ongoing training, increases standardization in how information is interpreted and applied in the field. Through intensive training, the division is in a much better position to achieve consistency in enforcement. Hence, the expectation of DOLP management is that training on risk assessment be included as a

topic in all monthly regional unit meetings. The format for such training may include case presentation and discussion. In addition, DOLP staff development activities will augment regional training by offering opportunities to learn from experts within and outside of our agency.

C) Database

Currently, the division is setting up a special database to track enforcement activities. The expectation is that the information will help make the division become more accountable for enforcement decisions made, and may also be used as part of the training program on risk assessment. On a regular basis, DOLP will provide each regional licensing office with a report on all enforcement activities.

FLOW CHART FOR THE RISK ASSESSMENT PROCESS



INVENTORY OF KEY HEALTH AND SAFETY STANDARDS

A. Staffing and Supervision

- Sufficient staff
- Adequate supervision
- Adequate personnel management

B. Hygienic Conditions

- Clean and odor free environment
- Optimal hand washing practices and universal precautions
- Clean supplies and equipment
- Proper disposal of body fluids

C. Environmental Conditions

- Proper maintenance of equipment
- Proper (management of) storage of hazardous substances
- Proper maintenance of plant and premises, e.g. burn hazards, fall hazards
- Well developed emergency preparedness plans- with resources (battery radios, 1st aid, etc.), drills

D. Physical, Psychological and Emotional Care

- Appropriate behavior management and physical interventions
- Appropriate programs, activities and services (that meet individual and group needs)
- Appropriate health services (including mental health)
- Elimination of abuse, neglect, exploitation (mental, emotional, physical, financial, and other human rights not stated here)
- Medication and Treatment Practices and Procedures
- Adhering to physician's order

- Securing medications or supplies and equipment
- Staffing with qualified staff to administer medications and/or treatments
- Properly disposing of unusable medications or unusable supplies and/or equipment
- Providing and/or securing timely medical assistance as needed
- Appropriately documenting all administrations of medications and/or treatments

F. Reporting and Recordkeeping

- Ensuring appropriate documentation
- Ensuring compliance with laws that apply to agency or facility
- For child-placing agencies, following procedures for submission to court and court review of foster care service plans and submitting adoption progress reports to court
- For child-caring institutions, following confidentiality requirements of the law, receiving placement agreements from parents or legal guardian
- Reporting suspected child or adult abuse and neglect

Risk Assessment and Enforcement Options Matrix

OCCURRENCE Step 1: Potential for violation to result in harm?	C) High			
	Harm is imminent or has occurred	C-1 (14)	C-2 (16)	C-3 (18)
	B) Medium			
	Harm is likely to occur	B-1	B-2	B-3 (12)
		B-1 (8)	B-2 (10)	
	A) Low			
	Harm is not likely to occur, but possibility exists	A-1 (2)	A-2 (4)	A-3 (6)
SEVERITY Step 2: Potential or actual degree of harm from violation?		1) Moderate	2) Serious	3) Extreme
		Violation(s) exposes consumers to a degree of harm that does not require intervention(s) beyond the knowledge, skills, and abilities of the direct care employees	Violation(s) exposes consumers to a degree of harm that requires professional intervention(s) such as from medical and/or mental health personnel	Violation(s) exposes consumers to serious life-threatening harm, or permanent partial or total disability in the area of physical, emotional and/or psychological functioning

Must consider the following variables before determining level of risk:

Exacerbating characteristics of violations: nature (or type); repetition (rare, episodic, or frequent); pattern (isolated, scattered, or systemic); duration of exposure (length of impact); speed (acceleration of impact)

Exacerbating characteristics of target population: age, status of mental, emotional and physical health

Mitigating variables: enhanced physical safety features or surveillance of building or landscape, staffing above required number, staffing above required KSA's, annual skills proficiency test requirement

Step 3: TABLE OF ENFORCEMENT OPTIONS

At Minimum, Consultation Is Provided A-1 & B-1	Intermediate Sanctions Must Be Considered B-1, C-1, A-2, B-2 & A-3
Revocation/Denial Must Be Considered B-2, C-2, B-3 & C-3	
<p>Must consider the following variables before recommending an enforcement option:</p> <p>Enforcement-related variables considered in recommendation of action: history of demonstrated prevention-based compliance, resourcefulness in problem resolution, consistency of enforcement actions for similar violations.</p>	

Examples of Factors Affecting The Potential for Harm

High: Means harm is imminent because of the nature of the violation and/or population.

Examples: Unsafe playground, improper refrigeration; lack of sight/sound supervision, unqualified person administering medication, administering wrong medications, admitting inappropriate residents, failure to refer residents with serious physical and/or psychiatric conditions for appropriate help, failure to remove or secure hazardous substances, failure to eliminate hazardous areas or repair hazardous equipment, furnishings, or parts of building construction.

Medium: Means harm is likely to occur.

Examples: Failure to adhere to asbestos management plan, a pattern of not administering medication for high blood pressure, not consistently and thoroughly documenting a resident's needs and developing a care plan in the individualized service plan, a staff member feels nothing is wrong with using profanity when speaking to children but agrees to make an effort to stop, a resident is receiving psychotropic medication for mental illness but is not involved in psychosocial rehabilitation services as ordered by his physician.

Low: Means harm is less likely to occur, but the possibility exists. With respect to time, the event is unpredictable but would seldom happen, such as once or twice a year or less.

Examples:

A resident has not received her vitamin pill for several weeks, the facility has not developed an emergency evacuation plan, an immunization record has not been received for one child, there is no screen for a window in the room used to care for preschool children in a child day center, a light is out on the 1st floor hallway in an assisted living facility where there are geriatric residents.

Examples of Severity of Harm

Extreme:

Means the following:

- 1) The potential physical impact in the form of an injury or disease that could result in death, hospitalization, or the need for emergency medical care;
- 2) A child-placing agency's action or failure to act that results in disrupted placements, illegal adoptions, irreversible placement decisions, or abuse or neglect of a child in its care;
- 3) An emotional, psychological, or legal impact that has the potential to leave lasting effects that will require long term therapeutic, in-patient care, and/or legal action to correct;
- 4) A child caring institution's action or failure to act that results in abuse or neglect.

Examples:

Potentially life-threatening injury/illness, medication mismanagement or diversion, physical/emotional abuse including sexual molestation, and exposure to a highly contagious disease; financial mismanagement that could result in agency or facility closure; for child-placing agencies: placements without the legal authority to do so; failure to follow the mandated termination of parental rights procedures; failure to receive criminal record or child protective services checks on foster parents or adoptive parents before placement; failure to follow Code mandated service plan requirements for children in agency custody.

Serious:

Means the following:

- 1) The potential physical impact that is likely to require medical care for an injury or disease or medication error with a recuperation period of several days (in-patient care may or may not be required)
- 2) A psychological, emotional or legal impact that has a noticeable effects for a similar length of time (or on a short-term basis);
- 3) A child-placing agency's actions or failure to act that results in inappropriate placements, lack of service planning or provision of services.

Examples:

Injury/illness that requires health care for symptomatic or preventive treatment, or moderate physical/emotional abuse that requires short-term attention from health professionals; for child-placing agencies: not obtaining all required admission documentation to make appropriate placements; a pattern of not completing service plans; failure to provide agreed upon services.

Moderate:

Means the following:

1) The potential physical or emotional impact that requires only minor care in the home or facility, with little or no interruption in daily activities and no oversight from a health care professional.

In-patient care is not required. For child-placing agencies, there is no disruption in placement or abuse of children in care.

Examples:

Minor injury/illness or minor emotional upset that requires only brief attention; for child-placing agencies: some children have not received annual medical or dental check-ups; caseworker briefly exceeds caseload requirements during short-term staff shortage.